IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
JUL 14 2015
ARTHUR JOHNSTON
BY ______ DEPUTY

U.S. Technology Corporation,
4200 Munson St. NW
Canton, Ohio 44718,

&

Raymond F. Williams,
4200 Munson St. NW
Canton, Ohio 44718

Plaintiffs,

v.

Mississippi Department of Environmental Quality,
P. O. Box 2261
Jackson, MS 39225,

&

Steven Bailey,
(Individually and in his capacity as employee and/or agent of Mississippi Department of Environmental Quality)
c/o MDEQ
PO Box 2261
Jackson, MS 39225,

&

Richard Harrell
(Individually and in his capacity as employee and/or agent of Mississippi Department of Environmental Quality)
c/o MDEQ
PO Box 2261
Jackson, MS 39225.

Defendants.

JUDGE:

Case No.: 5:15cv66 DCB-MTP

CIVIL COMPLAINT
Jury demand endorsed heron

Now come Plaintiffs, U.S. Technology Corporation and Raymond F. Williams ("Plaintiffs"), by and through the undersigned counsel, and hereby files their Complaint as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff US Technology Corporation ("Plaintiff UST") is an Ohio corporation with its principal office in Ohio.

2. Plaintiff Raymond F. Williams ("Plaintiff Williams") is an individual residing in Clark, County, Nevada.

3. Defendant Mississippi Department of Environmental Quality ("MDEQ" or "Defendant") is a Mississippi state agency established to protect the public's health, safety and welfare by way of environmental conservation, protection and improvement.

4. Defendant Steve Bailey ("Defendant Bailey") and Richard Harrell ("Defendant Harrell") were, at all times relevant herein, agents, directors, officers, and/or employees of Defendant MDEQ.

5. Defendants Bailey and Harrell, individually and in their capacities as agents, directors, officers, and/or employees of Defendant MDEQ, engaged in unlawful activities towards Plaintiffs as set forth herein.

6. This Court has federal jurisdiction pursuant to 28 USC § 1331.

7. This Court has supplemental jurisdiction pursuant to 28 USC § 1367.

8. Venue is appropriate in this Court pursuant to 28 USC § 1391(b).

BACKGROUND FACTS

9. Patrick Ramsay ("Ramsay") is the landowner of the property located at 800 South Industrial Parkway, Yazoo City, MS 39194 ("Yazoo site").

10. Ramsay was an officer, director and shareholder in an entity known and operated as Hydromex.

11. Gene Pridemore ("Pridemore") was the other shareholder in Hydromex and was directing the Hydromex operation at the Yazoo site.

12. Plaintiff UST and Hydromex entered into a supply and recycle agreement ("Hydromex Agreement") on August 11, 2000.

13. The Hydromex Agreement obligated Hydromex to recycle the spent blast material ("SBM") sent by Plaintiff UST to the Yazoo site into a beneficial product pursuant to 40 CFR § 261.2(e).

14. SBM is the end result of a plastic bead particulate blasted against military aircraft in an environmentally friendly manner which strips the paint off of the aircraft.

15. Plaintiff UST receives the SBM as part of its recycle agreement with the military.

16. From the inception of the Hydromex Agreement, MDEQ was aware of the operation at the Yazoo site.

17. MDEQ was directly involved in insuring that the recycling operation was conducted properly under state and federal law.

18. MDEQ employees and agents met with Hydromex representatives and with Plaintiff UST in its efforts to understand all facts of the recycling operation placed at the Yazoo site.

19. The operation commenced in August of 2000 and continued for approximately 26 months, during which time over 25 million pounds of the SBM was accumulated at the Yazoo site.

20. Plaintiff UST paid Hydromex more than one million dollars over the course of the 26 months to perform proper and lawful recycling of the SBM.

21. Plaintiff UST received reassurances from MDEQ that the agency was visiting the Yazoo site often and approved the operation and its products.

22. Hydromex manufactured blocks and concrete pads at the Yazoo site.

23. The formulas for the blocks and for the concrete pads were provided to MDEQ for their approval and MDEQ permitted Hydromex to continue with its manufacture activities.

24. The concrete pads approved by MDEQ as a beneficial product were to be 36 inches deep, as demonstrated in Exhibit "A".

25. In 2002, Plaintiffs were being comforted that the recycling was being performed properly because MDEQ was providing agency oversight.

26. MDEQ visited the Yazoo Property once or twice a month unannounced to review its recycling operations through its employee, Defendant Bailey allegedly.

27. Defendant Bailey would visit the Yazoo site for hours at a time.

28. During these visits of official business by Defendant Bailey, he was also offering to sell his ostrich meat for $5.00 a pound to Hydromex employees.

29. Defendant Bailey was at the Yazoo site to inspect the concrete pads and the pad dimensions and he was seen standing inside the pad holes which were at least 60 inches deep.

30. The pad holes were dug at the direction of Pridemore and it is believed were used to either hide barrels of SBM or to illegally dispose of the SBM.

31. Defendant Bailey never questioned the dimensions of the pits or informed Plaintiffs of the suspicious pad holes.

32. Defendant Bailey never alerted Plaintiffs to the improper dimensions of the pits.

33. Plaintiffs had a meeting at MDEQ on or about approximately May 29, 2002 and were never told that the review by MDEQ at that time indicated an improper or sham recycling operation.

34. Defendant Bailey would have seen that the blocks which were being manufactured were crumbling and could not be used as a beneficial product.

35. Defendant Bailey never alerted Plaintiffs that the blocks were being made improperly and not in accordance with 40 CFR § 261.2 (e).

36. Hydromex employees either believed that Defendant Bailey approved of all of the activities going on at Hydromex or that a financial benefit was being received to look the other way.

37. MDEQ eventually issued a Commission Order No. 4510-02 against Hydromex in which it considered all of the SBM to be a solid or hazardous waste subject to regulation by Subtitles C and D of the Resource Conservation and Recovery Act, 42 USC § 6901 et seq; the regulations promulgated thereunder, the Mississippi Solid Waste Disposal Law, Miss. Code Ann. § 17-17-1 et seq.; the Mississippi Air and Water Pollution Control Law, Miss. Code Ann. § 49-17-1 et seq.; and the Mississippi Hazardous Waste Management Regulations.

38. Hydromex was shut down in November of 2002.

39. Defendant Bailey never alerted Plaintiffs to the unusually deep pad holes after the shutdown.

40. In 2002, MDEQ was inquiring whether material, which was once hazardous waste, could later be exempted from regulation (if it could be recycled).

41. MDEQ determined, in its Agency's Letter of December 23, 2002, attached hereto as Exhibit "B," that through its discretion, it could exempt the SBM at the Yazoo site from the hazardous waste laws and permit UST to recycle the SBM.

42. Neither MDEQ nor Defendant Bailey alerted or informed Plaintiffs that the pad holes were much deeper than they should have been designed.

43. The first Agreed Order between MDEQ and UST dated July 17, 2003, attached hereto as Exhibit "C," permitted UST to recycle the SBM at the Yazoo Property, and this Order remained in effect until February 28, 2011.

44. Plaintiffs did not become aware that the pad holes were as deep as five feet and filled with barrels and other SBM for years after they had agreed to recycle the materials on site.

45. Defendant Bailey appeared as shocked as Plaintiffs during this time frame when the barrels were dug out and the SBM was recovered from the pad holes.

46. Defendant Bailey had a duty to alert authorities and the Plaintiffs when he inspected the Yazoo site from 2000-2002 and witnessed the improper designs and mismanagement of the SBM.

47. Defendant Bailey's failure to disclose the reality of the Hydromex operations caused significant and additional clean-up costs for Plaintiffs.

48. Plaintiffs had no reason in 2006 to conclude that MDEQ knew the pad holes were suspiciously deep or that the agency would conceal facts from Plaintiffs.

49. Pridemore was ultimately sentenced for the mismanagement of the hazardous waste and served his sentencing in a federal prison.

50. The February 28, 2011 Agreed Order, attached hereto as Exhibit "D," permitted recycling of the SBM at any manufacturing facility designated by Plaintiff UST.

51. Plaintiff UST and Ramsay entered into an agreement in August 2011 ("The Agreement"), pursuant to which Plaintiff UST would continue operations as outlined in the 2011 Agreed Order with a conclusion date of December 31, 2013.

52. Plaintiffs entered into a settlement agreement with Ramsay on reliance of the characterization of the SBM as recyclable material under the 2011 Agreed Order.

53. In 2013, Mississippi Department of Transportation ("MDOT") wanted to utilize the SBM in its road base.

54. The Second Agreed Order in 2013, attached hereto as Exhibit "E," permitted UST to send the SBM to MDOT for its state road base project, and all of the SBM was to be removed by December 31, 2013.

55. At all times and in each Agreed Order with MDEQ, the SBM was recognized and acknowledged as recyclable material.

56. On or about October of 2013, MDOT informed Plaintiff Williams of UST that the project did not receive its funding and as such the project would not be going forward as planned.

57. MDEQ was aware that the MDOT project did not receive its funding.

58. Plaintiff Williams spoke with Defendant Bailey from MDEQ to request if he could move the remaining SBM down the street to store it until the MDOT funding was received or other arrangements could be made, thus permitting him to comply with the Ramsay settlement agreement.

59. Defendant Bailey told Plaintiff Williams he would check to see if the remaining SBM could be moved to a facility which was less than a mile down the road from the Yazoo site.

60. Defendant Harrell directed Defendant Bailey to inform Plaintiff Williams that he could not store the SBM a mile down the road and that he needed to get it removed from the Yazoo site by December 31, 2013.

61. In October of 2013, all of the SBM had been removed from the deep pad holes.

62. There were at least six million more pounds than Plaintiff UST had ever shipped to the Yazoo site.

63. The additional six million pounds of SBM came from UST competitors.

64. Nonetheless, UST removed the SBM in good faith in order to comply with settlement agreement and the Agreed Order.

65. Plaintiff Williams abided by Defendant Harrell's instructions to have the material removed from the Yazoo site by December of 2013.

66. Plaintiff UST entered into a contract with a recycling facility known as and referred to as MGM in Missouri to recycle the remaining material at the Yazoo site.

67. Plaintiff UST took measures to have the SBM moved to MGM.

68. Plaintiff UST performed all of the necessary monthly reports demonstrating the shipments to Missouri of the SBM.

69. Plaintiff Williams sent a letter to Defendant Bailey on November 18, 2013 of the shipments of SBM to Missouri and his intention to have all of the material removed by December 31, 2013.

70. Plaintiff Williams had a conversation with Defendant Bailey and with Attorney Roy Furrh from MDEQ about the shipments to Missouri and they expressed no concern.

71. On or about December 2, 2013, MDEQ arbitrarily and without warning informed Plaintiffs Williams and UST to cease all shipments to Missouri.

72. Plaintiff UST was permitted to petition the Court in Case No. 5:08CV218 DOB-JCG if there were intervening causes interfering with the completion of the settlement agreement between Plaintiff UST and Ramsay and to which UST did in fact petition the Court for relief.

73. As of December 2013, the Executive Director of MDEQ, Gary Rikard, recused himself of any issues with Plaintiff UST because of a prior representation.

74. Defendant Harrell began solely making the decisions regarding UST.

75. Defendant Harrell testified at a hearing in Case No. 5:08CV218 that he solely made the decision, after learning that the MDOT project failed to get its funding, to classify the SBM as hazardous waste.

76. Defendant Harrell arbitrarily decided to ignore all prior agreed orders and abused his power toward Plaintiffs.

77. Defendant Harrell's arbitrary and deceitful orders to cease operations violated Plaintiffs' rights as citizens.

78. Defendant Bailey spoke to Missouri EPA and informed them that the SBM was hazardous waste.

79. Daryl Duncan, as the owner of MGM, was also issued a notice of violation and told he could not recycle the SBM because MDEQ identified it as hazardous waste.

80. This caused MGM to withdraw from doing business with Plaintiffs as it was told Plaintiffs were engaged in transporting hazardous waste.

81. Defendants made these false statements recklessly and with knowledge of its contrary position to prior agreements and the consequences of said statements.

82. Attorney Furrh went so far as to draft the letter for USEPA Region 7 to send to UST characterizing the SBM as hazardous.

83. Plaintiff UST was informed they would need to treat the remaining SBM located at the Yazoo site with eight percent cement and then dispose of it at the Canton, Mississippi landfill.

84. With no other choice, Plaintiff UST and MDEQ entered into an Agreed Order on April 22, 2014, attached hereto as Exhibit "F," for UST to treat the remaining SBM with eight percent cement at the Yazoo site and take it to the Canton Landfill and further a fine of $40,000.00 was assessed against them.

85. Plaintiff UST provided ten percent cement to the SBM and hired Ream and Haager as an outside contract lab to test the material to make sure it passed for TCLP results before taking it to the Canton landfill in accordance with the 2014 Agreed Order and the landfill requirements.

86. The Ream and Haager results demonstrated that all of the SBM treated material taken to the Canton landfill passed the TCLP tests and *was non-hazardous*.

87. Plaintiff UST followed all requirements under the 2014 Order.

88. MDEQ decided to test the treated material in their internal lab and the results reported high cadmium results.

89. MDEQ performed this test in house and improperly to justify their abusive behavior toward Plaintiffs UST and Williams.

90. The high results as reported by the internal MDEQ lab caused MDEQ to send a cease and desist letter on July 8, 2014 to Plaintiff UST's counsel.

91. No further activity has been permitted by MDEQ on the Yazoo site since the cease and desist letter was issued one year ago.

92. Plaintiffs UST and Williams have been damaged significantly as a result of Defendants' illegal abuse of power.

93. Defendants sent a cease and desist letter to further restrict Plaintiff's administrative rights to object to MDEQ's order to stop removing the SBM.

94. The cease and desist of operations violated Plaintiffs' due process rights.

95. Approximately 20 million pounds has been removed from the property and approximately 5 million pounds remain at the Yazoo property.

96. Theodore O. Meiggs, Ph. D. ("Dr. Meiggs") was a consultant who was hired to analyze the MDEQ testing on samples of treated SBM from the Yazoo site and the Canton landfill.

97. Dr. Meiggs' opined that the MDEQ lab had used their own manufactured HCl, which created an improper testing of the material causing unreliable results.

98. Plaintiff UST's laboratory was correct in their testing methods which demonstrated that the treated SBM was non-toxic.

99. The MDEQ test results are not valid because their procedures were improperly performed.

100. Plaintiffs assert that these improperly performed procedures were done intentionally to serve as a means to abuse their power over Plaintiffs.

101. Defendant Harrell testified that he had never inquired from the MDEQ lab the problems with the testing even though he was the laboratory's direct supervisor.

102. The treated SBM poses no threat to the environment and Defendant Harrell's reckless indifference to Plaintiffs serves no purpose other than an abuse of power.

103. The TCLP toxic metals in the treated SBM are below regulatory levels for hazardous wastes as well as for land disposal.

104. Region IV indicated in November of 2014 that issues with Plaintiff UST needed resolved to move forward and nothing has been done to date.

105. These requests were all summarily ignored and MDEQ continued to mistreat Plaintiffs.

106. MDEQ chief of staff, Chris Wells, indicated in an email in November of 2014 that Plaintiff UST could proceed under the Order if payments were made to MDEQ of $5,000.00 a week.

107. Such a stance by Mr. Wells is arbitrary, capricious and abusive to Plaintiffs.

108. MDEQ has the discretion to permit Plaintiff UST to continue recycling the remaining material at the Yazoo site as contracted in Agreed Orders for 11 years.

109. Defendant Harrell knew the MDEQ testing results were not accurate and intentionally has interfered with Plaintiffs rights under the Agreed Orders.

110. Defendant Harrell had no fair or sound reasoning to continue to refuse Plaintiffs' ability to continue with their business.

111. Plaintiff UST was determined to be a victim during the federal investigation of the Hydromex operations and sentencing of Pridemore.

112. Plaintiff Williams was always told by MDEQ that he could recycle the material until December 31, 2013.

113. MDEQ notified Missouri that the SBM was hazardous waste which prevented recycling and has and continues to cause substantial damages and costs to Plaintiffs.

114. The State of Mississippi has saved in excess of 60 Million Dollars by the actions of Plaintiffs in recycling the SBM, extracting the SBM from the pad holes and repackaging and/or treating the SBM.

115. MDEQ is abusing their discretion as their actions are malicious and arbitrary.

116. MDEQ refuses to take any current actions to resolve this matter.

117. MDEQ has even admitted that the SBM could be recycled as it has not changed in its characteristic in any fashion.

118. Defendants' arbitrary actions has cost the Plaintiffs millions of dollars.

119. MDEQ has improperly fined Plaintiffs for its own mistakes.

COUNT 1: FRAUD/FRAUDULENT MISREPRESENTATION

120. Plaintiffs incorporate each and every allegation previously set forth as if specifically rewritten herein.

121. Defendants had a legal duty to communicate, correct and provide lawful information to Plaintiff.

122. Defendants made specific representations that the SBM was recyclable and could be manufactured into concrete blocks and pads and Plaintiffs relied on these representations.

123. Plaintiffs relied on the fact that MDEQ was inspecting the Hydromex operations in 2000-2002 and was approving the recycling operations on a regular basis.

124. MDEQ and Defendant Bailey never communicated that the pad holes were outside the approved dimensions and/or that the Hydromex operations were not in accordance with approved activities.

125. MDEQ and Defendant Bailey misrepresented that the regular inspections at Hydromex did not produce any concerns to MDEQ.

126. Plaintiffs continued to ship the SBM to Hydromex and continued to pay Hydromex large sums of monies for the recycling operations based on the representations by MDEQ and Defendant Bailey.

127. After the Hydromex operation was shut down, MDEQ and Defendant Bailey did not disclose any concerns from the prior inspections to Plaintiffs as MDEQ wanted Plaintiff UST to clean up the property so it would not be done at the expense of the state of Mississippi.

128. Plaintiff UST undertook the cost and the operations to manufacture block from the SBM and entered into various agreed orders with MDEQ.

129. After twelve years of a representation that the SBM could be recycled and after Plaintiffs had recovered all of the material from underground, Defendants arbitrarily deemed the SBM to be a hazardous waste.

130. Plaintiffs were ordered to cease their operations based on arbitrary and false information as the material had not changed its ability to be recycled.

131. Defendants' representations that the SBM was not recyclable when it was transported to Missouri were false.

132. Defendants further represented that if Plaintiffs treated the SBM with 8% cement and passed TCLP testing to the landfill's standards, then the material could be taken to the Canton Landfill.

133. Plaintiffs provided ten percent of cement to the SBM and produced TCLP passing results from Ream & Haager before transporting from the Yazoo site to the landfill.

134. Defendants improper testing falsified a high cadmium result in the treated material.

135. Defendants represented that no further treated material could be transported to the landfill based on their own faulty testing procedures.

136. Defendants have been stalled for over twelve months waiting for action from MDEQ.

137. Defendants' representations were material to Plaintiffs in that without the representations, Plaintiffs would not have continued to ship material to Hydromex, would not have agreed to clean up the Yazoo site and/or agreed to treat the SBM.

138. Defendants had knowledge and a reckless disregard of the falsity of their representations.

139. Plaintiffs had no knowledge of the falsity of the representations.

140. Plaintiffs had the right to rely on the truth of the representations.

141. Plaintiffs suffered consequential and proximate injuries from Defendants' fraudulent representations.

142. As a direct and proximate result of the Defendants' fraud/fraudulent misrepresentations, Plaintiffs have suffered, and continue to suffer, damages, including loss of past and future earnings, and other damages to be proven at trial.

COUNT 2: FRAUDULENT CONCEALMENT

143. Plaintiffs incorporate each and every allegation previously set forth as if specifically rewritten herein.

144. Defendants affirmatively and fraudulently concealed that the Hydromex operations was not recycling properly in accordance with the state and federal laws.

145. Defendants had a legal duty to communicate, correct and provide lawful information to Plaintiffs.

146. Instead, Defendant Bailey was attempting to secure his own financial gain of selling his product to Hydromex employees and was not inspecting the Hydromex facility in the manner in which he should have inspected the facility as an agent and employee of MDEQ.

147. Defendants' representations and silence were material to Plaintiffs in that Plaintiffs continued to ship SBM to Hydromex before its shut down and further continued to work with MDEQ over the last twelve years in the clean-up of said property.

148. Hydromex employees disclosed in June of 2015 that Defendant Bailey made regular visits to Hydromex and his failure to identify concerns or problems with Hydromex of the substandard block and suspiciously deep pads caused them to remain silent of the problems.

149. Defendants knew that they had characterized the SBM as recyclable material for twelve years and yet did not inform Missouri that the material could be recycled at the point in time it was being shipped to Missouri.

150. Defendants had knowledge of the fraudulent concealment and knew that their representations to Missouri would cause substantial harm for Plaintiffs.

151. Defendants knew that they had prior problems with testing done in house at MDEQ.

152. Although the approved lab of Ream & Haager clearly demonstrated that the treated SBM was non-hazardous, Defendants continued their arbitrary and unfair practice of forcing Plaintiffs to cease operations.

153. Defendants intended that Plaintiff would act, or refrain from acting, due to their power as a state entity.

154. Plaintiffs had no knowledge of the fraudulent concealment of Defendant Bailey and MDEQ until disclosures from Hydromex employees in June of 2015.

155. A document production by subpoena power in 5:08CV218 demonstrated the improper testing of the treated SBM by MDEQ and demonstrated a reckless indifference and willful disregard of Plaintiffs rights as MDEQ has not investigated or attempted to reconcile their improper testing in any fashion in over past 12 months.

156. Plaintiffs suffered consequential and proximate injuries from Defendants' fraudulent concealment.

157. As a direct and proximate result of the Defendants' fraudulent misrepresentation, Plaintiffs have suffered, and continue to suffer, damages to be proven at trial.

COUNT 3: DEFEMATION PER SE

158. Plaintiffs incorporate each and every allegation previously set forth as if specifically rewritten herein.

159. Defendants MDEQ, Bailey and Harrell made numerous false and malicious defamatory statements about Plaintiffs, which were published to various third-parties while knowing that the statements were false.

160. Defendants repeatedly stated that Plaintiffs had transported hazardous waste.

161. Defendants went as far as reaching out to businesses, other state agencies, federal agencies and customers to defame Plaintiffs stating that the material was hazardous waste while knowing that these statements were untrue.

162. The false and malicious statements of these Defendants were made with the specific intent of damaging Plaintiffs' reputation.

163. The false and malicious statements of these Defendants were also made with the intent of adversely affecting Plaintiffs' business relationships.

164. The conduct of these Defendants was willful, wanton and malicious and intentionally designed to injure Plaintiffs financially.

165. As a direct and proximate result of the Defendants' defamation, Plaintiffs have suffered, and continue to suffer damages to be proven at trial.

COUNT 4: TORTIOUS INTERFERENCE

166. Plaintiffs incorporate each and every allegation previously set forth as if specifically rewritten herein.

167. Defendants had knowledge of The Agreement executed in August 2011 between Plaintiff UST and Ramsay, pursuant to which Plaintiff UST would continue operations as outlined in the 2011 Agreed Order.

168. Defendants engaged in wrongful acts, as described herein, that they were certain or were reasonably certain would interfere with The Agreement.

169. The wrongful acts were intentional and willful.

170. The wrongful acts were calculated to cause damage to the Plaintiffs in their lawful business.

171. Defendants performed the wrongful acts with the unlawful purpose of causing damage and loss to Plaintiffs, without right or justifiable cause.

172. As a direct and proximate result of the Defendants' tortious interference, Plaintiffs have suffered, and continue to suffer damages to be proven at trial.

COUNT 5: DEPRIVATION OF DUE PROCESS RIGHTS – 42 U.S.C. § 1983

173. Plaintiffs incorporate each and every allegation previously set forth as if specifically rewritten herein.

174. Defendants MDEQ, Bailey and Harrell have concealed information and misrepresented information in order to meet their goal of abusing their powers and prohibiting the Plaintiffs from recycling its SBM.

175. Defendants did not provide Plaintiffs the information of their inspections at Hydromex because of personal financial benefits or a reckless indifference to the sham recycling.

176. Defendants did not provide the information to Plaintiffs as they wanted to entice Plaintiffs to clean up the site at their cost rather than the cost to the state of Mississippi thereby protecting their individual jobs at MDEQ.

177. Defendants testing of the treated SBM in house and ignoring the independent lab results created a situation for additional penalties assessed against UST and was and is reckless and an abuse of power.

178. Defendants sent Plaintiffs a cease and desist letter in order to stop its operations instead of the more traditional order, so that Plaintiffs would have limited abilities to challenge such a letter.

179. Defendants also were intentionally and/or recklessly using inadequate testing procedures to demonstrate that the treated SBM was hazardous.

180. There actions were arbitrary and with no justification to which they have expressed no desire to reconcile.

181. More so, the results demonstrating the treated material is non-hazardous and has been corroborated by Dr. Meiggs, at an additional expense of UST, and yet Defendants continue to prohibit Plaintiffs from its operations to comply with the Settlement Agreement and Agreed Order.

182. The policy and/or unofficial custom and practice of the Defendants violated Plaintiffs' fundamental liberty interest in operations.

183. Defendants MDEQ, Bailey and Harrell, acting under color of state law, violated Plaintiff UST's and Williams' fundamental liberty interest in continuing its business and allowing it to meet its obligations to other entities.

184. Defendants' wrongful and malicious conduct was the result of policies, regulations, or customs officially and/or informally created by MDEQ.

185. The wrongful and malicious policies and/or customs of the Defendants demonstrated an intentional and deliberate indifference to the constitutional deprivations created.

186. As a direct and proximate result of the Defendants' wrongful conduct, Plaintiffs have suffered, and continue to suffer, damages to be proven at trial.

WHEREFORE, Plaintiffs Raymond F. Williams and U.S. Technology Corporation respectfully seek judgment in its favor and damages as follows:

A. On Count 1, **Fraud/Fraudulent Misrepresentation**, actual and punitive damages in an amount in excess of $75,000;

B. On Count 2, **Fraudulent Concealment**, actual and punitive damages in an amount in excess of $75,000;

C. On Count 3, **Defamation Per Se**, actual and punitive damages in an amount in excess of $75,000;

D. On Count 4, **Tortious Interference**, actual and punitive damages in an amount in excess of $75,000;

E. On Count 5, **Deprivation Of Due Process Rights – 42 U.S.C. § 1983**, actual damages in an amount in excess of $75,000; plus

F. Reasonable attorney fees, costs and interest, and any further relief that this Court determines is just and proper.

Respectfully submitted:

John Daniels, III, (Mississippi Bar #5787)
Dyer, Dyer, Jones & Daniels
149 North Edison Street
Post Office Box 560
Greenville, MS 38702-0560
Tel: (662) 378-2626
Fax: (662) 378-2672
Attorneys for Plaintiffs US Technology Corporation and Raymond F. Williams

JURY DEMAND

Pursuant to Fed.R.Civ.P. 38(b) and Loc.R. 38, Plaintiffs hereby demand a trial by jury on all issues so triable.

John Daniels, III, (Mississippi Bar #5787)

Attorneys for Plaintiffs US Technology Corporation and Raymond F. Williams